IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

MONDAY, THE 9TH JULY 2007 / 18TH ASHADHA 1929

OP.No. 8120 of 2000(N)

PETITIONER:

K.P.PAULOSE, UP.P.S.A,
EBENEZAR HIGH SCHOOL, VETTOR
NELLADU P.O.,
(VIA) MUDAVOOR, ERNAKULAM.

BY ADV. SMT.MARY BENJEMIN

RESPONDENTS:
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1. **STATE OF KERALA, REP.BY THE SECRETARY TO GOVT., GENERAL EDUCATION DEPT. GOVT. SECRETARIAT, THIRUVANANTHAPURAM.**

2. **DEPUTY DIRECTOR OF EDUCATION, ERNAKULAM.**

3. **DISTRICT EDUCATIONAL OFFICER , MUVATTUPUZHA.**

BY GOVERNMENT PLEADER SMT.SMITHA SUKUMAR

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 09/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NOS.48391/2002 , 13531/2000 IN OP. NO.8120/2000

DISMISSED

09.07.2007 **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE JUDGMENT IN OP. NO.18481/97.

EXT.P2:- COPY OF THE ORDER DT. 10.3.98 OF THE 1ST RESPONDENT.

EXT.P3:- COPY OF THE JUDGMENT OP.N O.5161/908.

EXT.P4:- COPY OF THE ORDER DT. 3.7.99 OF THE 1ST RESPONDENT.

EXT.P5:- COPY OF THE LETTER ADDRESSED TO THE 3RD RESPONDENT.

EXT.P6:- COPY OF THE LETTER DT. 17.2.2000 OF THE 3RD RESPONDENT.

/TRUE COPY/

P.A. TO JUDGE

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THOTTATHIL B.RADHAKRISHNAN, J.

O.P.No.8120 OF 2000

Dated this the 9th day of July, 2007

JUDGMENT

This is an unfortunate case of a Pre-primary School Teacher having come to this Court for a 4th time. The files disclose sheer nepotism and administrative highhandedness. By Ext.P1 judgment rendered in 1998, this Court directed consideration of an application for correction of date of birth. By Ext.P3, the decision taken thereafter was quashed and an order of costs of Rs.2,500/- was imposed on the Government, along with a direction to consider the application of the petitioner. On 3.7.1999. the impugned Ext.P4 has been issued correcting the date of birth. The petitioner continued to serve as UPSA on the basis of the correction. However, for reasons best known to the officer who made Ext.P4, the rectification made by Ext.P4 regarding date of birth was ordered to be confined for calculating pension “without retaining any other claim for the purpose of fixing pensionary benefits and the increments to the petitioner would have earned during the extended period will

also be reckoned notionally". There was absolutely no reason for confining the relief to the petitioner by notional fixation of monitory benefits that might be due to him on account of the correction of date of birth. To say the least, Ext.P4 demonstrates an administrative perverse and a hostile attitude in discharging public function. This is a clear case where a UPSA stands harassed in spite of repeated interventions by the constitutional court.

In the result, the writ petition is allowed quashing Ext.P4 to the extent it denies increment or any other relief to the petitioner in terms of the correction of date of birth as ordered thereby. All arrears due to the petitioner will be released with 6% interest from 1.4.1990 till the date of payment within a period of two months from the date of receipt of a copy of this judgment. Though this is a fit case to impose exemplary costs, having regard to the fact that the State Government had once paid Rs.2,500/- as costs to the petitioner on account of the actions of its officers, I do not think it will be in the interest of

the State Exchequer to let it deplete further because of the actions of such erring officers. Order for costs is, therefore, declined.

Sd/-

THOTTATHIL B.RADHAKRISHNAN,
Judge

kkb.

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THOTTATHIL B. RADHAKRISHNAN, J

O.P.NO.8120 OF 2000

JUDGMENT

9TH JULY, 2007.

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